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8 **UNITED STATES DISTRICT COURT**
9 **SOUTHERN DISTRICT OF CALIFORNIA**

10 UNITED STATES OF AMERICA,

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12 Plaintiff,

13 v.

14 ANDRES ESCOBEDO,

15 Defendant.
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Case No.: 13-CR-2521-GPC

ORDER AND JUDGMENT

18 Plaintiff United States of America has moved to dismiss this case without
19 prejudice. Defendant Andres Escobedo does not oppose the motion. As set forth
20 below, the Court GRANTS the unopposed motion.

21 **I.**

22 **PROCEDURAL HISTORY**

23 On July 28, 2013, the Court ordered that a psychological evaluation of
24 Defendant be conducted pursuant to 18 U.S.C. § 4241. (ECF No. 9.) On August 19,
25 2013, the Court ordered an additional determination and disposition pursuant to 18
26 U.S.C. § 4241(d), finding that Defendant is presently suffering from a mental disease
27 or defect rendering him mentally incompetent to the extent that he is unable to
28 understand the nature and consequences of the proceedings against him or to assist

properly in his defense. (ECF No. 16.) The Court ordered that the Attorney General hospitalize Defendant for treatment in a suitable facility until his mental condition is so improved that trial may proceed, but in no case longer than one hundred twenty (120) days. (*Id.*)

Defendant arrived at the U.S. Medical Center for Federal Prisoners in Springfield, Missouri (“Springfield Medical Center”) on October 3, 2013. On October 22, 2013, the Court granted a request for an extension of time to complete Defendant's psychological evaluation. (ECF No. 21.) On February 19, 2014, the Court granted a request from the warden of Springfield Medical Center for additional time to complete Defendant’s mental health treatment to determine if there is a substantial probability that Defendant will become competent for trial to proceed. (ECF No. 22.) On June 20, 2014, the Court granted a further request for extension of time to continue Defendant’s mental health treatment at the Springfield Medical Center. The Court issued a written order setting a further competency hearing for October 17, 2014. (ECF No. 26.) On July 17, 2014, the Court granted the Government’s unopposed motion for an evaluation of Defendant under 18 U.S.C. § 4246. (ECF No. 31.)

On August 14, 2014, the Springfield Medical Center issued a report captioned “FORENSIC PSYCHOLOGICAL REPORT – Competency Report pursuant to 18 USC 4241(d)” (hereafter “Competency Report”). The Competency Report concludes that Defendant “remains incompetent to proceed to trial or make other legal decisions.” (Competency Report, page 12.) The Competency Report further concludes that “there does not appear to be a substantial probability that Mr. Escobedo will be restored to competency within the foreseeable future.” (*Id.*)

Also on August 14, 2014, Springfield Medical Center issued a report captioned “FORENSIC PSYCHOLOGICAL REPORT – Risk Assessment Report pursuant to 18 USC 4246” (hereafter “Risk Report”). The Risk Report concludes that Defendant “is presently suffering from a mental disease that creates a substantial risk of bodily

1 injury to another person or serious damage to property of another if release[d] and
2 thus, he meets criteria for commitment under Title 18, United States Code, Section
3 4246.” (Risk Report, page 16.)

4 **II.**

5 **FINDINGS OF FACT**

6 1. Based upon a preponderance of the evidence, the Court finds, pursuant to
7 18 U.S.C. § 4241(d), that Defendant Andres Escobedo currently is not competent to
8 stand trial in the above-captioned case.

9 2. The Court also finds, pursuant to 18 U.S.C. § 4241(d), that there is not a
10 substantial probability that in the foreseeable future Defendant Andres Escobedo will
11 attain the capacity to permit these proceedings to go forward.

12 **III.**

13 **ORDER AND JUDGMENT**


14 The Court ORDERS as follows:

15 1. The Court GRANTS the United States of America’s motion to dismiss
16 this case without prejudice. Defendant Andres Escobedo “is subject to the provisions
17 of sections 4246 and 4248.” See 18 U.S.C. § 4241(d)(1).

18 2. The Competency Report and Risk Report shall be filed under seal.

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20 IT IS SO ORDERED.

21 DATED: September 25, 2014

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23 HON. GONZALO P. CURIEL
24 United States District Judge
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